

24844. Adulteration and misbranding of butter. U. S. v. The Southern Butter Co. Plea of guilty. Fine, \$100. (F. & D. no. 34046. Sample no. 2441-B.)

This case was based on an interstate shipment of butter that was deficient in milk fat and short weight.

On June 21, 1935, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southern Butter Co., a corporation, Muskogee, Okla., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 13, 1934, from the State of Oklahoma into the State of Michigan, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: (Carton) "Butter 30 Lbs. Net Wt. Rolls 1 lb. Country Roll"; (parchment wrapper) "1 Lb. Net Weight When Packed."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as defined by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Butter 30 Lbs. Net Wt. Rolls 1 Lb. Country Roll" and "1 Lb. Net Weight", borne on the labeling, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was butter, a product which must contain not less than 80 percent by weight of milk fat; that each carton contained 30 pounds of the said article; that each package contained 1 pound net of the said article; whereas it was not butter, since it contained less than 80 percent by weight of milk fat; each carton did not contain 30 pounds of butter, but did contain a less amount; and each package did not contain 1 pound net of butter, but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statements made were incorrect.

On August 5, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

24845. Adulteration and misbranding of butter. U. S. v. Rufus Niemi (Central Illinois Creamery). Plea of guilty. Penalty, \$50. (F. & D. no. 34047. Sample no. 4410-B.)

This case was based on an interstate shipment of butter that was deficient in milk fat and that was not labeled to indicate the quantity of the contents.

On July 22, 1935, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Rufus Niemi, trading as the Central Illinois Creamery at Nokomis, Ill., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about May 30, June 5, and June 29, 1934, from the State of Illinois into the State of Missouri of a quantity of butter which was adulterated and misbranded.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the article was food in package form and the quantity of the contents of the package was not plainly and conspicuously marked on the outside of the package.

On August 16, 1935, the defendant entered a plea of guilty and the court imposed a penalty of \$50 in lieu of fine and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

24846. Adulteration of canned sardines. U. S. v. Coast Fishing Co. Plea of guilty. Fine, \$150. (F. & D. no. 34049. Sample nos. 29586-A, 29587-A, 29592-A, 29593-A, 38383-A.)

This case was based on interstate shipments of several lots of canned sardines which were in part decomposed.

On June 27, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Coast Fishing Co., a corporation, Wilmington, Calif., alleging that on or about February 23, 1934, the defendant company delivered to the Franco-Italian Packing Co., Inc., quantities of canned

sardines under a guaranty that the product conformed with the requirements of the Federal Food and Drugs Act; that the Franco-Italian Packing Co., Inc., sold and delivered the said canned sardines to Haas, Baruch & Co., Los Angeles, Calif., under a like guaranty; that the said canned sardines were shipped in interstate commerce from the State of California into the State of Arizona by Haas, Baruch & Co., on or about April 2 and April 6, 1934; that the product was adulterated in violation of the Food and Drugs Act; and that the defendant, the Coast Fishing Co., because of its guaranty to the Franco-Italian Packing Co., Inc., and the guaranty of the latter company to the shipper of the goods, was amenable to prosecution for violation of the Food and Drugs Act. The article was labeled in part: "Quail Brand Sardines * * * Haas, Baruch & Co. Los Angeles, Calif. Distributors."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On July 15, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$150.

W. R. GREGG, *Acting Secretary of Agriculture.*

24847. Misbranding of canned peaches. U. S. v. G. H. Wetterau & Sons Grocer Co., and Otto Wetterau. Pleas of guilty. Fines, \$103. (F. & D. no. 34056. Sample nos. 4402-B, 4404-B.)

This case was based on interstate shipments of canned peaches which fell below the standard for canned peaches established by this Department, because of the presence of excessively blemished or trimmed fruit, and deficiency of sugar in the liquid portion, and which were not labeled to indicate that they were substandard.

On September 17, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against G. H. Wetterau & Sons Grocer Co., a corporation, and Otto Wetterau, St. Louis, Mo., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about April 21 and May 9, 1934, from the State of Missouri into the State of Illinois of quantities of canned peaches which were misbranded. A portion of the article was labeled in part: "Freedom Standard Yellow Cling Peaches * * * G. H. Wetterau & Sons Grocer Co., St. Louis, Mo. * * * Distributors." The remainder was labeled in part: "Freedom Brand Sliced Yellow Cling Peaches."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since in one lot the liquid portion read less than 14° Brix the permitted minimum, due to insufficient sugar, 90 percent of the solid units, namely, the halves of the fruit, were not unbroken, and 80 percent were not unblemished; and in the other lot the liquid portion read less than 14° Brix, the solid units were not uniform in size, some of the units weighed less than one-twelfth of an ounce, the permitted minimum, and were blemished in excess of the tolerance; and the package did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that the article fell below such standard. Misbranding was alleged with respect to the product in one shipment for the further reason that the statement "Standard", borne on the can label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was peaches which conformed to the United States standard; whereas it did not conform to such standard.

On September 21, 1935, pleas of guilty were entered by the defendants and the court imposed a fine of \$100 against Wetterau & Sons Grocer Co., and \$3 against Otto Wetterau.

W. R. GREGG, *Acting Secretary of Agriculture.*

24848. Adulteration and misbranding of butter. U. S. v. Pella Produce Co., Inc. Plea of guilty. Fine, \$40 and costs. (F. & D. no. 34066. Sample nos. 2001-B, 2002-B, 2217-B, 2222-B, 2223-B.)

This case was based on interstate shipments of butter which contained less than 80 percent of milk fat. Samples taken from certain lots were found to contain ants, mold, a fly leg, hairs, feather fragments, and miscellaneous dirt.

On July 20, 1935, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Pella Produce Co. Inc., trading as the Pella Creamery at Pella, Iowa, alleging shipment by said company in violation of